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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,071	11/21/2000	Jay C. Hsu	KCX-359 (15169)	1979
7590	02/10/2004			EXAMINER
Jason W. Johnston, Dority & Manning, P.A. PO Box 1449 Greenville, SC 29602-1449				YU, GINA C
			ART UNIT	PAPER NUMBER
			1617	
			DATE MAILED: 02/10/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/718,071	HSU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gina C. Yu	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 8 December 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4,7-17,19-22,24-27,29 and 44-46 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,7-17,19-22,24-27,29 and 44-46 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 8, 2003 has been entered. Claims 1-4, 7-17, 19-22, 24-27, 29, 44, 45 are pending.

### ***Terminal Disclaimer***

The terminal disclaimer filed on October 3, 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of application 09/717,939 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 7-12, 14-17, 19-22, 24-27, 29, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammonds et al. (WO 98/03147) in view of Kryzsik et al. (US 6153208) (“Kryzsik”), Sebillotte-Arnaud (US 5728389), and Potini (US 4944938).

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Hammonds teaches wet wipes of fibrous sheet materials that are partially saturated with an aqueous solution comprising 0.5-50 % oat extract and 10-90% solubilizing agent. The aqueous liquid comprises 0.5-10 % of the composition. The wipes have a basis weight of 5-200 g/m<sup>2</sup>. The oat extract comprises skin protectants and emollients. Propylene glycol and sorbitol are disclosed as solubilizing agents. Emollients, moisturizers, additional surfactants, and preservatives are disclosed as additional ingredients. The solution may be added to the fibrous sheet material at an add-on level of about 0.1-50 %. Towels are taught as another form of the product. The reference also teaches using glycerin to solubilize the oat extract without irritating the skin. While the reference teaches using surfactants, the reference fails to teach alkoxylated surfactants as claimed in the instant claim. See p. 2, lines 4-12 and 34; p. 3, line 5-p. 4, line2; p. 4, line 30-p.5, line 29; p.6, lines 1-8; p. 5, lines 24-31; p.7, lines 1 6-35; pp. 14-16.

Kryzsik teaches wet wipe comprising an oil-in-water emulsion. Talloweth-60 myristyl glycol, an alkoxylated surfactant, is used as an emulsifying surfactant. See abstract; col. 9, line 1.

Sebillotte-Arnaud teaches that talloweth-60 myristyl glycol is conventionally used in skin cleansing compositions. See Example 3.

Potini teaches that talloweth-60 myristyl glycol is a conventional water-soluble thickener well known in cosmetic art. See col. 2, lines 60-64.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have added the talloweth-60 myristyl glycol as motivated by

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Sebillotte-Arnaud to the composition of Hammonds because Kryzsik teaches that talloweth-60 myristyl glycol as an emulsifying surfactant useful in cosmetic compositions and Hammonds teaches that surfactants can be added to the composition as solubilizing agents to avoid using the skin irritants such as butylenes and propylene glycol. Thus, one of skill in the art would be motivated to add talloweth-60 myristyl glycol to the composition of Hammonds in place of butylenes glycol or propylene glycol because of the expectation of successfully producing a product that does not irritate the skin. The motivation to specifically select talloweth-60 myristyl glycol would have been also obvious to one of skill in cosmetic art in view of Potini because of the expectation of achieving the enhanced viscosity for the Hammonds cleansing composition.

***Response to Arguments***

Applicant's arguments file December 8, 2003 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-0635.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Gina Yu  
Patent Examiner



SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER

2/2/04